Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Commission's Regulations Governing Television Broadcasting	)	MM Docket No. 91-221
	)	
Television Satellite Stations Review of Policy and Rules	)	MM Docket No. 87-8

To: The Commission

COMMENTS OF LEE ENTERPRISES, INCORPORATED

Lee Enterprises, Incorporated ("Lee"), pursuant to Section 1.419 and 1.415 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, hereby submits its comments in the above-captioned proceedings. Lee is a longtime Commission licensee whose holdings have included both radio and television stations. Currently, Lee is the licensee of five television stations and two television satellite stations, and the controlling owner of two television stations and two television satellite stations. In addition, an application for transfer of control of two television stations and three television satellite stations to Lee is currently pending before the Commission. The comments offered herein focus specifically on four issues raised in the Commission's Further Notice of Proposed Rulemaking ("FNPRM") in the above-captioned proceedings: (1) national television ownership rules; (2) local ownership rules; (3) rules affecting television satellite stations; and (4) time brokerage (often called local marketing) agreements.

I. **The Commission Should Replace its 12-Station National Ownership Limit with Only an Audience Reach Cap of 25%**

Lee urges the replacement of the 12-station numerical national ownership cap with an audience reach cap of 25%. As the Commission itself has suggested, formulating national limits only in terms of reach, rather than in conjunction with a number of stations limit, captures the relevant and material dimension of interest (i.e., the total viewing audience potentially available), and it properly allows companies the flexibility to own either a few stations serving largely populated markets or a larger number of stations serving relatively small population centers.

Lee believes that modifying the rule in this manner would provide all licensees with the opportunity to reach a roughly equal share of the national market. The current rule does not provide such balance. For example, the Commission has recognized that its current 25% national limit is the more binding regulatory constraint on national group owners who focus on the largest markets. For group owners who focus on acquisitions in smaller markets, however, the 12-station limit can be triggered long before a 25% national audience reach is even approached. For example, Lee, whose television group has grown in smaller markets, will be approaching the 12-station limit should its pending transfer application be granted (giving it 9 stations), although its national household audience will barely reach 6%. As evidenced in this example, the disparity between the two prongs of the Commission's current rule -- the 12-station limit and the 25% national audience reach -- creates too large a gap between the ways that groups, like Lee, who target smaller markets, and more national group owners, like the networks, are able to do business. Lee believes, therefore, that the 12-station limit should be eliminated in favor of formulating national limits solely in terms of reach.

This change in the national ownership rule can be justified under both the competitive and diversity analyses proffered by the Commission in its FNPRM. As a longtime television licensee, Lee can perceive no potential anticompetitive effects of relaxing the national ownership limits to this measured degree. The markets for both delivered video programming (where over-the-air television stations compete with the abundance of channels available on cable and increasingly, direct broadcast satellite) and for local advertising (where television stations compete with other broadcast TV stations, cable systems, and radio stations) are, in this day and age, sufficiently competitive to protect against potential undesirable effects. Moreover, it is Lee's experience that group ownership does not create undue market power *vis-a-vis* the purchase of video programming.

Relaxing the national ownership limit *will* have beneficial economic effects, however. The advantages derived by group owners from the ability to spread the services of management, bookkeeping, administrative, sales and programming personnel over a larger number of stations, and the potential for group advertising sales and program purchases are certainly significant. In addition, Lee agrees with the Commission's suggestion that relaxing national group ownership numerical limits may, in fact, expedite the rate of incorporation of technological innovation into television broadcasting, as group owners have the financial capital and geographical diversification necessary to bear the costs and take the risks associated with introducing advanced television broadcasting technologies into existing television broadcasting stations.

Further, from the standpoint of diversity, Lee believes that such relaxation of the national ownership limits will tend to increase rather than decrease viewpoint diversity. As an initial premise, with new technologies and more efficient use of spectrum, the number of voices available to the average consumer has exploded since the current national ownership rules were adopted, lessening the overriding concern about preserving the diversity of the airwaves. Regardless, Lee believes that the impact of relaxing the national group ownership limits on viewpoint diversity would be positive. It is Lee's experience that group owned stations have access to greater resources, including expert personnel and superior training capability, allowing them to excel in terms of high quality programming and community leadership. While able to take advantage of the considerable resources group ownership provides, in order for individual stations to be successful they must recognize and implement into their day-to-day operation the fact that localism is the hallmark of television broadcasting. It is true, for example, that in most group operations local managers tend to make editorial and reporting decisions autonomously. Therefore viewpoint diversity would not be diminished by increased numerical national ownership.

Lee submits that the substantial economies of scale realized through increased national ownership would actually increase viewpoint diversity. The concomitant cost savings can and typically will be applied to attract and train skilled talent, and to improve community awareness, news gathering, editorializing, and public affairs programming.

II. The Commission Should Modify its Local Ownership Rule to Bar Predicted Grade A, Rather than Grade B, Overlap

The Commission's current local ownership rule prohibits common ownership of two television stations whose predicted Grade B contours overlap. Lee supports the proposed relaxation of this rule by decreasing the prohibited contour overlap from the Grade B to Grade A. Lee concurs that the Grade A contour standard provides a substantially more practical and accurate measure of a station's core viewing area than the existing Grade B contour rule. In addition, Lee submits that in some cases the Commission should relax the local ownership rule to permit joint ownership of two broadcast television stations with Grade A contour overlap.

These changes to the rules will increase broadcasters' long-term viability by enabling them to utilize economies of scale and thereby improve service to the public.

Lee believes that these rule changes can be made without adversely impacting effective competition in local markets. Because of increased competition from cable television in local markets, a local owner of two television stations will not be capable of exercising market power to the detriment of advertisers. From a diversity standpoint, again, the totality of information outlets on the local level has increased. Not only has the number of television outlets materially increased since the Commission's last review of the television multiple ownership rules, but also virtually all viewers have access to cable television and other video services. These sources and outlets for video programming provide true alternatives to over-the-air television for purposes of ensuring viewpoint diversity. As with relaxation of the national ownership cap, the savings allowed by streamlining management, marketing, and station administration will actually increase broadcasters' ability to provide program diversity, variety and quality.

III. The Rules Governing Satellite Television Stations Should Be Reevaluated in Light of Changes to the Ownership Rules

The outcome of the Commission's national and local ownership limits will necessarily impact how the Commission regulates television satellite stations. Lee believes that the Commission's current rules governing satellite stations have departed from the Commission's original intent to provide television service to underserved areas where service is economically infeasible, and instead may in some cases permit evasion of the television ownership rules. As an initial premise, therefore, Lee believes that only those stations that rebroadcast a substantial part of their main station's programming should be qualified for treatment as satellites.

Regardless, should the Commission adopt the Grade A duopoly overlap standard, as appears likely, its satellite rules (which prohibit City-Grade but allow Grade A overlap for a main station and its satellite) must be considered from a new perspective. Lee submits that if the Commission eliminates its numerical cap and retains a national audience reach limitation only, then the "satellite" stations' (unduplicated) audience ought to be counted toward the cumulative national household reach. Should the Commission retain a numerical cap such as the existing 12-station limit, however, Lee would support maintaining the Commission's current policy of excluding satellite stations (again, defined only as those that substantially duplicate main station programming) from the calculation of national station ownership.

IV. The Commission's Rules Should Permit Television LMAs and at a Minimum Grandfather Existing Agreements

There is no doubt that local marketing agreements ("LMAs") and time brokerage agreements can provide competitive and diversity benefits to both the brokering parties and to the public. From Lee's observation, the public interest benefit to be gained from allowing television LMAs can be stated succinctly -- stations cannot serve the public interest if they are not on the air, and LMAs can put them on the air or keep them there.

Lee firmly believes that the growth of television LMAs in the past two years arose out of economic necessity. A highly competitive marketplace caused many stations to cut back on staff and programming in order to preserve valuable resources. Many such stations are barely able to survive, much less fulfill all of their public interest obligations. Joint ventures, like LMAs, evolved as a result of these struggles, providing separately owned stations with efficiencies similar to those available to commonly-owned stations by permitting them to function cooperatively via joint advertising sales, shared technical facilities and joint programming arrangements.

It is Lee's belief that LMAs will be a valuable means of helping financially struggling stations stay on the air. Moreover, they can provide a unique avenue through which television stations which remain unbuilt for economic reasons can be placed in operation. Lee contends that LMAs strengthen the television industry by allowing broadcasters to pool their resources, combining administrative, sales, programming, production and other functions, and by permitting them to share studio space and equipment, realizing the same valuable efficiencies discussed above in relation to the national and local ownership rules.

Again, Lee believes that permitting LMAs, like modest relaxation of national and local ownership rules, will create a beneficial degree of consolidation in the television industry while minimizing the likelihood of undue concentration, thus furthering the public's interest in viewpoint diversity and a competitive marketplace. Certainly, when confronted with the prospects of stations remaining unbuilt or facing financial jeopardy, the public interest is advanced by creating and continuing on-air services. Whereas a struggling station will often find it impossible to devote the type of resources necessary to fund quality news and public affairs programming, higher investment in news is a function of the benefits of economies of scale discussed above. Moreover, only by freeing broadcasters to adopt innovative strategies, such as LMAs, can the Commission help television licensees create thriving businesses able to combat increasing competition from cable and other video delivery services.

Given such circumstances, Lee would regard it to be appropriate for the Commission to adopt a requirement that parties seeking to enter into LMAs make a demonstration that the station to be brokered is confronting acute economic hardships. Further, Lee believes that, for purposes of attribution, time brokerage of stations for more than fifteen percent of the brokered station's weekly broadcast hours should result in counting the brokered station toward the brokering licensee's national and local ownership limits, as is the case for radio stations. Finally, Lee submits that in the interest of preserving existing LMAs, and avoiding undesirable disruptions to existing contractual relationships, LMAs in place should be grandfathered and subject to renewability and transferability guidelines similar to those governing radio LMAs.

For the foregoing reasons, Lee respectfully requests that the Commission revise its rules governing ownership of television and television satellites consistent with the comments expressed herein.

Respectfully submitted,

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